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SENATE BILL 166

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

CISCO MCSORLEY

AN ACT

RELATING TO RETIREMENT; PROVIDING FOR THE PURCHASE OF SERVICE
CREDIT UNDER THE EDUCATIONAL RETIREMENT ACT AND THE PUBLIC
EMPLOYEES RETIREMENT ACT FOR TIME SERVED IN THE PEACE CORPS;
AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-7 NMSA 1978 (being Laws 1987,
Chapter 253, Section 7, as amended) is amended to read:

"10-11-7. CREDITED SERVICE--PURCHASE OF SERVICE. --

A. A member who entered an armed service of the
United States may purchase credited service for periods of
active duty, subject to the following conditions:

(1) the member pays the association the
purchase cost determined according to Subsection [D] E of this
section;

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1 (2) the member has five or more years of
2 credited service acquired as a result of personal service
3 rendered in the employ of an affiliated public employer;

4 (3) the aggregate amount of credited service
5 purchased under this subsection does not exceed five years
6 reduced by any period of credited service acquired for military
7 service under any other provision of the Public Employees
8 Retirement Act; and

9 (4) credited service may not be purchased for
10 periods of active duty that are used to obtain or increase a
11 benefit from another retirement program.

12 B. A member who was employed by a utility company,
13 library, museum, transit company or by a nonprofit organization
14 administering federally funded public service programs, which
15 utility company, library, museum, transit company or nonprofit
16 organization administering federally funded public service
17 programs or federally funded public service programs
18 administered by a nonprofit organization are subsequently taken
19 over by an affiliated public employer, or a member who was
20 employed by an entity created pursuant to a joint powers
21 agreement between two or more affiliated public employers for
22 the purpose of administering or providing drug or alcohol
23 addiction treatment services irrespective of whether the entity
24 is subsequently taken over by an affiliated public employer, may
25 purchase credited service for the period of employment subject

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1 to the following conditions:

2 (1) the member pays the association the
3 purchase cost determined according to Subsection [D] E of this
4 section;

5 (2) the member has five or more years of
6 credited service acquired as a result of personal service
7 rendered in the employ of an affiliated public employer; and

8 (3) the aggregate amount of credited service
9 purchased under this subsection does not exceed five years.

10 C. A member who was appointed to participate in a
11 cooperative work study training program established jointly by
12 the state highway and transportation department and the
13 university of New Mexico or New Mexico state university may
14 purchase credited service for the period of participation
15 subject to the following conditions:

16 (1) the member pays the association the
17 purchase cost determined according to Subsection [D] E of this
18 section;

19 (2) the member has five or more years of
20 credited service acquired as a result of personal service
21 rendered in the employ of an affiliated public employer; and

22 (3) the aggregate amount of credited service
23 purchased under this subsection does not exceed five years.

24 D. A member who served in the peace corps may
25 purchase credited service for periods of service, subject to the

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1 following conditions:

2 (1) the member pays the association for each
3 year of allowed service credit desired an amount equal to the
4 actuarial value of the service purchased as defined by the
5 retirement board;

6 (2) the member has five or more years of
7 credited service acquired as a result of personal service
8 rendered in the employ of an affiliated public employer; and

9 (3) the aggregate amount of credited service
10 purchased under this subsection does not exceed four years.

11 [~~D.~~] E. Except for service to be used under a state
12 legislator coverage plan, the purchase cost for each month of
13 credited service purchased under the provisions of this section
14 is equal to the member's final average salary multiplied by the
15 sum of the member contribution rate and employer contribution
16 rate, determined in accordance with the coverage plan applicable
17 to the member at the time of the written election to purchase.
18 The purchase cost for each year of credited service to be used
19 under a state legislator coverage plan is equal to the sum of
20 the member contribution and an employer contribution of ten
21 times the annual amount of pension per year of credited service
22 under the state legislator coverage plan applicable to the
23 member. Full payment shall be made in a single lump sum within
24 sixty days of the date the member is informed of the amount of
25 the payment. The portion of the purchase cost derived from the

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1 employer contribution rate shall be credited to the employer
2 accumulation fund and shall not be paid out of the association
3 in the event of cessation of membership. In no case shall any
4 member be credited with a month of service for less than the
5 purchase cost as defined in this section.

6 [E-] F. A member shall be refunded, upon written
7 request filed with the association, the portion of the purchase
8 cost of credited service purchased under this section that the
9 association determines to have been unnecessary to provide the
10 member with the maximum pension applicable to the member. The
11 association shall not pay interest on the portion of the
12 purchase cost refunded to the member.

13 [F-] G. A member of the magistrate retirement system
14 who during his service as a magistrate was eligible to become a
15 member of the public employees retirement system and elected not
16 to become a member of that system may ~~[upon the effective date~~
17 ~~of this subsection]~~ purchase service credit under the public
18 employees retirement system for the period for which the
19 magistrate elected not to become a public employees retirement
20 system member, by paying the amount of the increase in the
21 actuarial present value of the magistrate pension as a
22 consequence of the purchase as determined by the association.
23 Full payment shall be made in a single lump-sum amount in
24 accordance with procedures established by the board. Except as
25 provided in Subsection [E] F of this section, seventy-five

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1 percent of the purchase cost shall be considered to be employer
2 contributions and shall not be refunded to the member in the
3 event of cessation of membership. "

4 Section 2. Section 22-11-34 NMSA 1978 (being Laws 1967,
5 Chapter 16, Section 157, as amended) is amended to read:

6 "22-11-34. ALLOWED SERVICE-CREDIT. --

7 A. A member shall be certified to have acquired
8 allowed service-credit for those periods of time when he was:

9 (1) employed prior to the effective date of the
10 Educational Retirement Act in any federal educational program
11 within New Mexico, including United States Indian schools and
12 civilian conservation corps camps. This service-credit shall be
13 allowed without contribution;

14 (2) engaged in military service that
15 interrupted his employment in New Mexico, if he returned to his
16 employment within eighteen months following honorable discharge.
17 This service-credit shall be allowed without contribution;

18 (3) engaged in United States military service
19 or the commissioned corps of the public health service from
20 which he was honorably discharged if he contributes to the fund
21 a sum equal to ten and one-half percent of his average annual
22 salary for that period of time for which he has acquired earned
23 service-credit under the Educational Retirement Act for each
24 year of service-credit he desires to purchase. Average annual
25 salary shall be determined in accordance with rules promulgated

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1 by the board, but shall always be based upon actual salaries
2 earned by the member where the actual salaries can be
3 ascertained by the board. The employer's contributions for
4 service-credit shall not be paid by the employer. The purchase
5 of service-credit provided in this ~~[section]~~ paragraph shall be
6 carried out by the member prior to July 1, 1992 or within three
7 years after the date of the member's employment following
8 service, whichever is later; ~~[or]~~

9 (4) employed:

10 (a) in any public school or public
11 institution of higher learning in another state, territory or
12 possession of the United States;

13 (b) in any United States military
14 dependents' school operated by a branch of the armed forces of
15 the United States;

16 (c) as provided in Paragraph (1) of this
17 subsection after the effective date of the Educational
18 Retirement Act; or

19 (d) in any private school or institution
20 of higher learning in New Mexico whose education program is
21 accredited or approved by the state board at the time of
22 employment; or

23 (5) engaged in service in the peace corps if he
24 contributes to the fund for each year of allowed service-credit
25 desired an amount equal to the actuarial value of the service

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1 purchased as defined by the board.

2 B. The member or employer under Paragraph (4) of
3 Subsection A of this section shall contribute to the fund for
4 each year of allowed service-credit desired an amount equal to
5 twelve percent of the member's annual salary at the time payment
6 is made if the member is employed or twelve percent times the
7 member's annual salary during the member's last year of
8 employment if the member is not employed at the time of payment.
9 Contributions paid for the member who is not employed shall bear
10 interest at the average rate earned by the fund during the five-
11 fiscal-year period immediately preceding the date of payment.
12 Such interest shall run from the date the member last terminated
13 employment to the date of payment. Payment pursuant to
14 Paragraph (4) of Subsection A of this section may be made in
15 installments, at the discretion of the board, over a period of
16 not to exceed one year, and, if the sum paid does not equal the
17 amount required for any full year of allowed service-credit, the
18 member shall acquire allowed service-credit for that period of
19 time which is proportionate to the payment made. Half credit
20 may be allowed without contribution for not more than ten years
21 of the educational service described by Subparagraph (a) of
22 Paragraph (4) of Subsection A of this section if that service
23 was prior to June 13, 1953 and if the member was employed in New
24 Mexico prior to June 13, 1953 in any position covered by the
25 Educational Retirement Act or any law repealed thereby.

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C. No member shall be certified to have acquired allowed service-credit:

(1) under any single paragraph or the combination of only Paragraphs (1) and (4) or only Paragraphs (2) and (3) of Subsection A of this section in excess of five years; or

(2) in excess of ten years for any other combination of Paragraphs (1) through [~~(4)~~] (5) of Subsection A of this section.

D. The provisions of this section are made applicable to the services described prior to as well as after the effective date of the Educational Retirement Act. "